IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.3720/07
Rameshwar & Ors. Vs. Bhagwana Ram & Ors.

23.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri D.S. Poonia for petitioners.
Shri S.K. Singodiya for respondent.

The petitioners have challenged the order dated 9.5.07 passed by the Additional District Judge, Jhunjhunu in his appeal filed against the order of Civil Judge (Jr. Division), Udaipurwati whereby that Court in exercise of his powers under Article 39 Rule 2A of the CPC sentenced each of the petitioners with one month's civil imprisonment and further in exercise of his powers under Section 151 CPC directed the police help

to be provided to the respondents for removal of the obstructions in the public way.

Learned counsel for the petitioners submitted that while the Court in its order dated 9.5.07 has stayed that part of the order whereby the sentence of the petitioners was awarded but has not stayed that part of the order whereby the police help to be provided to the respondents for removal of obstructions in the public way.

Having heard the learned counsel for the petitioners, I find that the learned trial court has passed the detailed and reasoned order and in fact the order of sentencing the petitioners to civil imprisonment was based on their conduct of posing obstructions in the

defendants right of using the public way by creating restrictions thereupon and merely because the appellate Court has stayed the sentence part of the order does mean that the remaining part of the order with regard to the removal of the obstructions by providing police help was also required to be stayed.

In the facts of the case, the order of the learned was just and proper. I do not find any error in the impugned order.

However, learned counsel for the petitioners argued that staying only part of the order and not staying the other part may prejudice their case in the pending appeal because upholding that part of the order must be construed approval of the reasons given therein. It

is clarified that the observations made in the impugned order and this order would not in any manner be construed to reflect upon the merits of the case.

With these observations, the writ petition is dismissed.

(Mohammad Rafiq),J.

Rs/-